

**REMARKS/ARGUMENT****Regarding the Claims in General:**

Claims 8-13, 34-36, 40-42, 47-49, 60 and 62-66 remain pending before the Examiner. Claims 1-7, 14-33, 37-39, 40-46, 50-53, 56-59 and 61 are withdrawn from consideration as directed to non-elected species/inventions.

Only claim 8 has been amended.

**Regarding The Allowable Subject Matter**

Applicants note with appreciation the indication that claims 11, 12, 36, 40-42, 49, 62, 63, and 66 would be allowed if rewritten in independent form incorporating the limitations of their respective parent claims. Because claims 11, 12, 62, and 63 are dependent on claim 8, claims 36, 40-42, and 66 are dependent on claim 35, and claim 49 is dependent on claim 48, all of which are believed to be allowable as written, these claims have been retained in dependent form pending the Examiner's further consideration.

**Regarding the Prior Art Rejections:**

In the outstanding Office Action, claims 34 and 65 were rejected as anticipated by Reynolds U.S. Patent 3,715,078 (Reynolds), claims 8, 9, and 13 were rejected as obvious over Cornelius U.S. Patent 3,729,141 (Cornelius) in view of Christen U.S. Patent 5,337,914 (Christen), claim 10 was rejected as obvious over Cornelius in view of Christen, and further in view of Zukas U.S. Patent 2,729,504 (Zukas), and claims 35, 47, 48, 60, and 64, were rejected as obvious over Reynolds in view of Christen. Applicants respectfully traverse these rejections.

***Claims 34 and 65.***

Claim 34 recites the following features, none of which is found in Reynolds:

a stationary sprinkler housing assembly . . .

a nozzle housing assembly mounted for rotation on top of the sprinkler housing assembly;

a nozzle mounted in the nozzle housing assembly for distributing a flow of water away from the sprinkler; and

a flow shut off valve mounted in the nozzle housing which is rotatable around an axis extending longitudinally within the housing to throttle or shut off the water flow to the nozzle.

Reynolds does not have a nozzle housing assembly, i.e. something which "houses" a nozzle mounted for rotation on a *stationary* sprinkler housing assembly. Dual spray nozzle unit 44 includes opposed discharge orifices 45 and 46, and is thus the nozzle. There is no rotatable housing within which unit 44 is mounted. Moreover, assuming that the claimed stationary sprinkler housing assembly corresponds to sprinkler body 14 in Reynolds, but even if nozzle unit 44 (or tubular element 48) is regarded as a nozzle housing (which applicant does not concede), it is mounted *in, and not on* body 14.

Finally, Reynolds's shut off valve 35 cannot be regarded as mounted in the nozzle housing since there is no nozzle housing, and in any case, the valve is mounted in the bottom of body 14 which is certainly not a rotatable nozzle housing assembly.

Since Reynolds lacks all of these features of claim 34, neither it, nor dependent claim 65 are anticipated, and should be allowed.

*Claims 8-10 and 13.*

Claims 8-10 and 13 are not obvious over Cornelius in view of Christen. Claim 8 calls for the following features not found in these references, whether considered singly or in combination:

a nozzle housing having a flow path formed therein for directing a flow of water received in the sprinkler assembly and a water stream outlet through which water flowing through the flow path exits the sprinkler assembly;

a nozzle removably mounted in the stream outlet for distributing water from the sprinkler assembly; and

a sleeve valve disposed in the nozzle housing flow path for throttling or shutting off flow to said nozzle, the sleeve valve having an opening and configured to intersect the flow path upstream of the nozzle.

To begin with, Cornelius has nothing which can reasonably be described as a nozzle housing. Neither water arms 52-58 which support the unnumbered nozzles at the ends thereof extend outward

from rotating spinner body 32 (see Col. 3, lines 23-27), nor spinner body 32 itself are nozzle housings, and in any event, the nozzles are not mounted (removably or otherwise) *in* arms 52-58 or body 32 as claimed.

Further, since Cornelius' sprinkler does not have a nozzle housing, his valve can not be in a flow path *in* a nozzle housing.

Finally, Cornelius' valve does not throttle or shut off flow to a nozzle housing. Whichever way the sprinkler is rotating, the desired water pattern is produced by allowing water flow to a maximum of three of the four water arms. The same amount of water flows to spinner body 32 in either direction, the only difference being which way the water goes out.

Christen, while it does show replaceable nozzles, does not remedy any of the other deficiencies in Cornelius detailed above. In any event, applicants do not claim to have invented the idea of replaceable nozzles, just a better way to facilitate the replacement process, which isn't contemplated in Cornelius or Christen. So even if Cornelius' nozzle are made replaceable, the result still does not meet the terms of claims 8, 9 and 13, and these claims should also be allowed.

*Claim 10.*

This claim is dependent on allowable claim 9, and should be allowed for the reasons stated above. Like Christen, Zukas does not remedy any of the deficiencies in Cornelius detailed above.

*Claims 35, 47, 48, 60, and 64.*

Independent claim 35 recites the following features not found in Reynolds, whether considered alone, or in combination with Christen:

a nozzle housing having a central axis and a flow path therein for water received in the sprinkler assembly,

the flow path having a main portion extending along the central axis of the nozzle housing and an angled portion defining a water stream outlet passage through which water flowing through the flow path exits the sprinkler assembly;

a nozzle removably mounted in the outlet passage for distributing water from the sprinkler assembly; and

a valve disposed in the nozzle housing flow path, the valve being movable between open and closed positions to control water flow to said angled portion of the nozzle housing flow path . . .

As explained above in connection with claim 34, Reynolds does not have a nozzle housing, and his nozzle unit 44 is not mounted (removably or otherwise) *in* a nozzle housing.

Likewise, it is apparent from Figs. 2 and 3, that even though nozzle unit 44 in Reynolds has the flow path with a main portion and angled portions, valve 35 is not in the any part of the flow path of unit 44, and the nozzles are not mounted *in*, but rather at the ends of the angled portions.

Finally, claim 35 also specifies that the valve is:

so constructed and configured that the parts thereof which control the water flow when the valve is not in the open position are substantially completely displaced from the outlet nozzle flow path when the valve is in a fully open position.

This is entirely contrary to the fundamental concept of Reynolds, which depends on swirling action caused by the valve parts to impart motion to ball 95 which drives the rotation of the sprinkler (see Col. line 67-Col. 2, line 5; Col. 5, lines 62-67).

Nor does Christen remedy the above-described deficiencies in Reynolds. As noted above, this reference shows only a removable nozzle, which applicants do not claim is new in any event. Thus, even if Reynolds and Christen are combined, the result does not meet the terms of claim 35. The rejection is accordingly improper, and claim 35 should be allowed, along with dependent claims 47 and 64.

Claim 48 is similar to claim 35 in respect to the distinguishing structural features discussed above, and is allowable, along with dependent claim 60, for the same reasons. In addition, claim 48 requires that the valve be:

. . . so constructed and configured that the parts thereof which control the water flow cause substantially no obstruction or turbulence in the nozzle flow path when the valve is in a fully open position.

As explained above in connection with claim 35, this is entirely contrary to the basic concept of Reynolds which depends on obstruction and turbulence for its operation. Claims 48 and 60 should therefore be allowed for this additional reason.

**Regarding the Withdrawn Claims:**

Since it has now been demonstrated that independent generic claims 8, 35, 36, and 48 are allowable, along with dependent generic claims 40 and 53, it is respectfully submitted that non-elected claims 1-7, 14-33, 37-39, 43-46, 50-59, and 61 should be considered and allowed. These claims are all patentable for all the reasons stated above.

In view of the foregoing, favorable reconsideration and allowance of this application are respectfully solicited.

I hereby certify that this correspondence is being transmitted by Facsimile to (703) 872-9306 addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

Respectfully submitted,

Lawrence A Hoffman

Name of applicant, assignee or  
Registered Representative

Lawrence A Hoffman  
Signature

May 19, 2005

Date of Signature

LAH:gl

Lawrence A Hoffman  
Lawrence A Hoffman  
Registration No.: 22,436  
OSTROLENK, FABER, GERB & SOFFEN, LLP  
1180 Avenue of the Americas  
New York, New York 10036-8403  
Telephone: (212) 382-0700